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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/578,160

08/29/2006

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EXAMINER

BERTHEAUD, PETER JOHN

ART UNIT

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3746

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/578,160	Applicant(s) KAGEBACK ET AL.	
	Examiner PETER J. BERTHEAUD	Art Unit 3746	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 February 2011.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 May 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This Office action is in response to amendments filed 2/17/2011. It should be noted that claims 1-7 have been amended and claims 8-11 are new.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the casing being provided with an air inlet must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

3. The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

Arrangement of the Specification

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT.
- (e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC.
- (f) BACKGROUND OF THE INVENTION.
 - (1) Field of the Invention.
 - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (g) BRIEF SUMMARY OF THE INVENTION.
- (h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (i) DETAILED DESCRIPTION OF THE INVENTION.
- (j) CLAIM OR CLAIMS (commencing on a separate sheet).
- (k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (l) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

4. The disclosure is objected to because of the following informalities: There are no headings, as shown above, in the specification.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 1-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The reasons are listed below:

In claim 1, lines 10-11, the newly added portion states that “the air stream from the air inlet of the casing can pass the engine even if the fan housing or the blower tube is blocked.” This limitation is rendered indefinite because it is unclear in which way the fan housing becomes blocked. This limitation is significantly broad. It seems odd to say that the fan *housing* can get blocked, as it is a housing and not a flow path. The Examiner believes that the Applicant is trying to claim that when a fan housing *flow path* or *outlet*, downstream of the opening 31, becomes blocked, the air stream from the air inlet of the casing can still pass the engine. However, this is not what is claimed. Furthermore, if the broad interpretation of this limitation is that the air stream can pass the engine when any flow path in the housing is blocked, what if the fan housing is “blocked” at the fan inlet 23? In this case no air would escape through the opening 31 because it would not be able to enter the fan housing to begin with; thus, the air stream from the air inlet of the casing would remain stagnant in the casing and the claim would not be enabled. This limitation needs to be better defined in the claim. Therefore, claim 1 is rendered indefinite.

Claim 6 recites the limitation “the side of the fan housing” in line 2. There is insufficient antecedent basis for this limitation in the claim, or in claims 1-3 from which claim 6 depends. No sides have been defined with respect to the fan housing.

Claim 7 recites the limitation, “such that the heated air does not pass through the blower tube”. This claim is rendered indefinite because this would not be the case if there were no blockage in the fan housing or the blower tube. A clarification of when the heated air would only escape through the opening 31 and exit opening 19 needs to be made, or the above limitation should simply be cancelled from the claim. Nevertheless, the claim as currently written is rendered indefinite.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1-8 and 11 are rejected, as best as can be understood, under 35 U.S.C. 102(b) as being anticipated by Salisian 6,305,048.

Salisian discloses, regarding claim 1, a blower assembly comprising: at least an engine 50 and a fan (see impeller 40), said fan comprises a fan housing (see the unitary dark housing that directly surrounds impeller 40 and motor 50 in Fig. 2) enclosing a fan wheel 40 and a fan inlet (see the inlet opening in the fan housing on the left side of the

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impeller 40 in Fig. 2), said engine 50 and fan (40) are surrounded by a casing 10, said casing 10 is provided with an air inlet 20 to let an air stream in to the fan inlet placed inside the casing 10 so that the air stream from the air inlet 20 in the casing 10 to the fan inlet cools the engine 50 and components inside the casing 10 before it enters the fan inlet (again, see the inlet opening on the left side of impeller 40 in Fig. 2) and leaves the blower via a blower tube 80 (see how the air stream that enters via 20 branches off and cools the motor 50 via opening 52 before it enters the fan inlet that leads to 40 in Fig. 2), characterized in that the fan housing (again, see the dark housing that directly surrounds impeller 40 and motor 50 in Fig. 2) is provided with an opening 52 positioned adjacent to the fan wheel 40 and in a location such that the air stream from the air inlet 20 of the casing 10 can pass the engine 50 even if the fan housing 10 or the blower tube 80 is blocked (see how the air stream can pass over the engine 50 via opening 52 and exit the casing 10 via 23 regardless of what is happening with the fan or blower tube assembly; see configuration in Figs.1 and 2); Re claim 2, wherein the opening 52 is placed in a position in the fan housing where the pressure inside the fan housing is low so that the amount of leaking air through the opening 52 is minimized during normal use; Re claim 3, wherein the opening 52 in the fan housing is placed close to the periphery of the fan wheel 40; Re claim 4, wherein the opening 52 in the fan housing is placed near an exit opening 23 in the casing 10 so that heated air is allowed to exit the casing 10; Re claim 5, wherein at least one part of the opening 52 is surrounded by a guiding cover (see the portion of the fan housing that extends beyond the right side of the engine 50 adjacent the intake chamber 20 in Fig. 2; it's located above the engine

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50) that leads the heated air from the opening 52 towards the exit opening 23 in the casing 10. Re claim 6, wherein the opening 52 is placed on the side of the fan housing; Re claim 7, wherein the heated air passes from the fan housing out of the opening 52 and exit opening 23, such that the heated air does not pass through the blower tube 80 (see how the air stream in Fig. 2 may pass through opening 52 in the fan housing and may flow directly to exit opening 23 without going to the blower tube 80 via 70; Re claim 8, wherein heated air passes through the opening 52 in the fan housing when a blockage is formed anywhere downstream from the fan wheel 40 (the assembly may perform in this way whether there is a blockage or not); Re claim 11, wherein the exit opening 23 is positioned between the casing 10 and an outlet pipe (see 70 in Fig. 2) (the exit opening 23 can be considered between one end of the casing 10 and the exit pipe at 70 as seen in the configuration in Fig. 1), further wherein the opening 52 is positioned pointing towards the exit opening 23 (see how 52 “points”, in a broadest reasonable interpretation of the word, towards exit opening 23 in Fig. 2).

In addition, it should be noted that while features of an apparatus may be recited either structurally or functionally, claims directed to an apparatus must be distinguished from the prior art in terms of structure rather than function, because apparatus claims cover what a device is, not what a device does (*Hewlett-Packard Co. v. Bausch & Lomb Inc.*, 909 F.2d 1464, 1469, 15 USPQ2d 1525, 1528 (Fed. Cir. 1990)). Thus, if a prior art structure is capable of performing the intended use as recited in the preamble, or elsewhere in a claim, then it meets the claim.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claim 9 is rejected, as best as can be understood, under 35 U.S.C. 103(a) as being unpatentable over Salisian 6,305,048.

Salisian discloses the invention as discussed above. However, Salisian does not disclose the engine positioned along an axial direction of the fan wheel on a first side of the fan wheel, further wherein the opening is positioned along the axial direction of the fan wheel on an opposing side of the fan wheel opposite from the engine.

Salisian does teach, regarding claim 9, the fan wheel's driving pulley 53, which is coupled to engine 50, positioned along an axial direction of the fan wheel 40 on a first side of the fan wheel 40, and further wherein the opening 52 is positioned along the axial direction of the fan wheel on an opposing side of the fan 40 opposite the driving pulley 53 (see configuration in Fig. 2).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to have modified the arrangement of the engine in Salisian, by implementing it on an opposite axial side of the fan housing from the opening, because the pulley which drives the fan wheel (and that is coupled to the engine) is, in fact, placed on the opposing axial side of the fan housing from the opening, and said engine, when placed in this position, would still be in the cooling air flow path, thereby allowing

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the assembly to function just as it would otherwise. Furthermore, placing the engine in this position amounts to a rearrangement of parts; it has been held that mere rearrangement of the essential working parts of a device involves only routine skill in the art. In re Kuhle, 526 F.2d 553, 188 USPQ 7 (CCPA 1975) (see MPEP 2144.04, VI. C. - Rearrangement of Parts).

Allowable Subject Matter

11. Claim 10 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Response to Arguments

12. Applicant's arguments with respect to claims 1-11 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to PETER J. BERTHEAUD whose telephone number is (571)272-3476. The examiner can normally be reached on M-F 9am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Devon Kramer can be reached on (571) 272-7118. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Unit 3746

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/Peter J Bertheaud/
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